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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,177	07/25/2003	Paul J. Drake JR.	L7089-0001	3874
7590	03/24/2005			
Michael L. Diaz Michael L. Diaz, P.C. Suite 200 555 Republic Drive Plano, TX 75074			EXAMINER GARLAND, STEVEN R	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/627,177

Applicant(s)

DRAKE ET AL.

Examiner

Steven R Garland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35, 37 and 38 is/are rejected.
- 7) ☒ Claim(s) 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/25/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The disclosure is objected to because of the following informalities: in the Brief Description of the Drawings section in paragraph 0018 figures 8A-8L should be described. In paragraph 0037 figure "8" does not appear to be a chart.

Appropriate correction is required.

2. The drawings are objected to because in figure 8A-8C,8G-8L portions of the figures are dark and unreadable. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. If applicant desires benefit of a previously filed application under 35 U.S.C. 119(e), specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence(s) of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or

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120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Remarks: Note that a provisional application is referenced in the declaration , but not before the first line of the specification as is proper.

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The rejected claims are all directed an abstract idea not technologically embodied in any physical structure. Further various dependent claims (such as claim 33) set forth additional limitations in the form of a mathematical construct that merely set

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forth an abstract idea in mathematical terms without any further physical implementation.

It is suggested that claim 1 be amended to claim the method in the form of a computer implemented method similar to dependent claims 38 and 37 which are not being rejected under 35 U.S.C. 101.

6. The information disclosure statement filed 7/25/03 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The information disclosure statement has been considered to the extent indicated, no copy of the WO document was provided.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 17-19,28-32, and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17, lines 2-3, " said step of calculating a least material condition or a maximum material condition " lacks a clear antecedent basis. Claims 18 and 19 have a similar problem.

Claim 28, in the expression for  $a_m$  , " the  $m^{\text{th}}$  material condition modifier " lacks a proper antecedent basis. Claims 29 and 30 have a similar problem.

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Claim 31, lines 6-7, the phrase “ assigning the process with a largest standard deviation for each variable component “ appears to be misdescriptive. See 604 and its description. It appears “for” should be changed to --to--.

Claim 37, line 3, “ the information “ lacks a proper antecedent basis.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1,2,5,11, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson 5,323,333.

Johnson 5,323,333 teaches a method for allocating tolerances (abstract). Johnson also teaches use worst case, RSS, and MRSS models ( col. 1, lines 62-67); use of dimension loops (col. 4, line 50 to col. 5, line 25, and table 1); and use of a computer 302, user interface 304, memory 306, and applying the controls for manufacturing control ( col. 20, lines 10-52 ); use of feature material modifiers ( col. 22,lines 34-37 ) such as maximum or minimum material conditions. See the abstract; figures; col. 1, lines 10-50; col. 2, lines 11-47; col. 3, line 53 to col. 4, line 22; col. 4, line 50 to col. 5, line 25; col. 6, lines 28-43;col. 21, lines 29-66; col. 22, lines 34-37; and the claims.

11. Claim 36 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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12. Claim 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kamatala et al. 2004/0015871 teaches a computer implemented method for analyzing design tolerances 0028; use of dimensional loops for various components 0013; analysis by use of RSS, MRSS, worse case 0013; See the abstract, figures paragraphs 0006,0007,0013,0014, 0016-0019,0021,0027,0028.

Atkinson et al. 5,956,251 teaches a system for meeting tolerances. Atkinson teaches use of a tolerance path, use of worst case and MRSS. See the abstract; figures; col. 1, lines 9-16; col. 4, lines 55-67; col. 5, line 36 to col. 6, line 10; col. 6, lines 38-56.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 571-272-3741. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

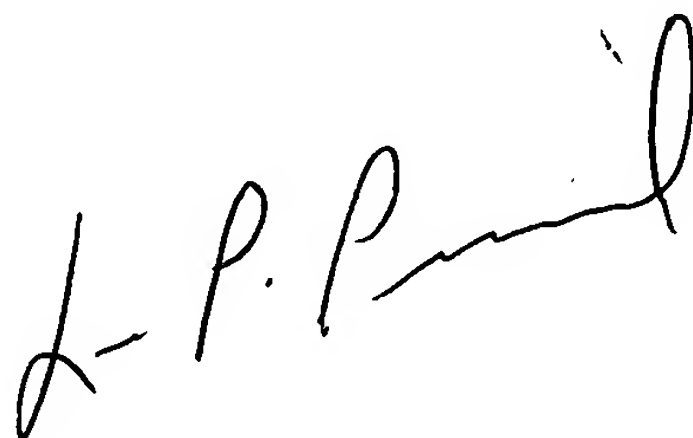


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*sm6*

Steven R Garland  
Examiner  
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3/19/05



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